

### REMARKS

Entry of the foregoing and reconsideration of the application identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.111 and in light of the remarks which follow, are respectfully requested.

By the above amendments, claims 4 and 5 have been canceled without prejudice or disclaimer. Claim 1 has been amended to incorporate the subject matter of canceled claim 4. Claim 1 has also been amended for clarification purposes to recite that the angle between the second direction and the direction normal to the plane of the transparent support is 80 to 100°. Support for this amendment can be found in the specification at least at the paragraph bridging pages 25 and 26. Claim 6 has been amended for clarification purposes, and now recites the term "transparent support". Claim 11 has been amended for readability purposes by replacing "a" prior to "retardation film" with "the".

In the Official Action, claims 5 and 6 stand rejected under 35 U.S.C. §112, second paragraph, for the reasons set forth at page 2 of the Official Action. In this regard, it is noted that the rejection of claim 5 is moot in light of the cancellation of such claim. With regard to claim 6, it is noted that such claim has been amended by replacing the word "layer" after "transparent" with "support". Antecedent basis for the term "transparent support" exists in claim 1. In view of the above amendments, withdrawal of the §112, second paragraph, rejection is respectfully requested.

Claims 1, 2, 4, 7, 10 and 11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Yamahara et al.* Withdrawal of this rejection is respectfully requested for at least the following reasons.

Claim 1 is directed to a retardation film comprising: a transparent support positioned in a plane; and at least one optically anisotropic layer having a first direction with a smallest

refractive index and a second direction with a largest refractive index, wherein said at least one optically anisotropic layer is formed of at least one compound exhibiting a liquid crystal phase; said at least one optically anisotropic layer exhibits biaxiality; the first direction is substantially orthogonal to a direction normal to the plane of the transparent support; and the second direction is substantially orthogonal to the direction normal to the plane of the transparent support, wherein the angle between the second direction and the direction normal to the plane of the transparent support is 80 to 100°.

*Yamahara et al* does not disclose each feature recited in claim 1, and as such fails to constitute an anticipation of such claim. For example, *Yamahara et al* does not disclose at least one optically anisotropic layer having a second direction with a largest refractive index, wherein the angle between the second direction and the direction normal to the plane of the transparent support is 80 to 100°, as recited in claim 1. By comparison, *Yamahara et al* discloses the following at the paragraph bridging columns 8 and 9:

The angle  $\theta$  by which the direction of the principal refractive index  $n_c$  of the phase difference plates 2 and 3 inclines, i.e. the inclination angle  $\theta$  of the refractive index ellipsoid, is set to an arbitrary value in the range  $15^\circ \leq \theta \leq 75^\circ$ . By setting the inclination angle  $\theta$  to such a value, regardless of whether the refractive index ellipsoid inclines clockwise or counterclockwise, the compensation function of phase difference by the phase difference plates 2 and 3 is surely achieved.

Referring to Figure 3 of *Yamahara et al*, and in light of the disclosure that the inclination angle  $\theta$  is in the range  $15^\circ \leq \theta \leq 75^\circ$ , it is apparent that the angle between the z axis and the direction of the principal refractive index  $n_c$  is 15° to 75°. Clearly, *Yamahara et al* fails to disclose that the angle between the second direction with a largest refractive index and the direction normal to the plane of the transparent support is 80 to 100°, as recited in claim 1.

In view of the above, it is apparent that *Yamahara et al* does not constitute an anticipation of claim 1. Accordingly, for at least the above reasons, withdrawal of the above rejection is respectfully requested.

Claims 1, 2, 4, 7, 10 and 11 stand rejected under the judicially created doctrine of obviousness-type double patenting as being obvious over claims 1 and 2 of U.S. Patent No. 6,685,998 in view of *Yamahara et al*. Claims 1, 2, 4 and 6-11 stand rejected under the judicially created doctrine of obviousness-type double patenting as being obvious over claim 10 of U.S. Patent No. 6,540,940 in view of *Yamahara et al*. Withdrawal of the above rejections is respectfully requested.

The Patent Office has acknowledged that the applied claims of the '998 and '940 patents do not disclose or suggest that the angle between the second direction with a largest refractive index and the direction normal to the plane of the transparent support is 80 to 100°, as now recited in claim 1 (Official Action at pages 5 and 8). *Yamahara et al* fails to cure this deficiency of the applied claims of the '998 and '940 patents. In this regard, this deficiency of *Yamahara et al* is discussed above in greater detail in connection with the §102(e) rejection based on *Yamahara et al*.

Accordingly, for at least the above reasons, withdrawal of the obviousness-type double patenting rejections is respectfully requested.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being obvious over *Yamahara et al*. Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Yamahara et al* in view of U.S. Patent No. 6,540,940 (*Negoro et al*). Claim 3 stands rejected under 35 U.S.C. § 103(a) as being obvious over *Yamahara et al* in view of U.S. Patent No. 6,712,896 (*Ono et al*). Claim 8 stands rejected under 35 U.S.C. § 103(a) as being obvious over *Yamahara et al* in view of an abstract of JP 50103485A. These rejections are moot in light of

the above amendments in which the subject matter of claim 4, which has not been rejected in the above rejections, has been incorporated into claim 1. Accordingly, for at least this reason, withdrawal of such rejections is respectfully requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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